

MEMORANDUM

Department of Aging and Disability Services (DADS) Regulatory Services Policy * Survey and Certification Clarification

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Veronda L. Durden
Assistant Deputy Commissioner
Regulatory Services

SUBJECT: Accredited by Joint Commission on Accreditation of Healthcare Organizations (JCAHO),
Community of Health Accreditation Program (CHAP) and Home and Community Support
Services Agencies (HCSSA) - **S&CC 04-08**

APPLIES TO: HCSSAs

DATE: November 12, 2004

Question 1:

Does DADS conduct a follow-up survey for licensure deficiencies that an accredited agency 1) received during a complaint investigation or 2) may have received prior to becoming accredited?

Answer:

DADS does not review licensure deficiencies during the period that the agency is accredited. At the time accreditation ceases, the deficiencies may be cleared or re-cited. However, if the agency is surveyed for a complaint investigation directly relating to a previously cited violation, that violation may be cleared or re-cited, as appropriate.

Question 2:

During a Medicare recertification or a follow-up survey of a licensed and certified HCSSA that is accredited (non-deemed), can DADS cite related licensure deficiencies?

Answer:

No, Texas Health and Safety Code §142.009(h) states that, except for the investigation of complaints, accredited agencies are not subject to additional surveys. Because of this provision, unless DADS is actually investigating a complaint, it may not cite state licensing violations against accredited agencies. To do so would subject the agency to an additional survey from which it is exempt under statute. This provision applies even in situations where a state violation would be identical to a federal violation.

Question 3:

If a licensure deficiency was cited on an accredited agency during a complaint investigation, is the agency required to submit a Plan of Correction (PoC)?

Answer:

Yes, the agency is required to submit a PoC in accordance with §97.501(h)(1)-("Submit an acceptable written PoC for each deficiency no later than 10 days from its receipt of a statement of deficiencies. A PoC date must not exceed 45 days from the date the deficiency was cited.")

Question 4:

If a Medicare deficiency is cited on a deemed accredited, licensed and certified agency during a complaint investigation or a validation survey, does the agency have to submit a PoC?

Answer:

For the complaint investigation, the agency must submit an acceptable PoC to DADS in accordance with SOM 2728 and 2728B, Statement of Deficiency and PoC. Once DADS has received an acceptable PoC, it will forward the Form 2567 with the PoC to the Centers for Medicare and Medicaid Services (CMS) within 30 calendar days.

For a validation survey, the agency does not have to submit an acceptable PoC to DADS. DADS will send the Form 2567 to CMS, which will process and send the letter to the agency.

For clarifications or questions regarding this memorandum, please contact Donna Passante, HCSSA Program Specialist, Regulatory Services Policy, at (512) 438-3529, or Michelle Dionne-Vahalik, Unit Manager, Policy Development and Support, at (512) 438-2353.

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Veronda L. Durden

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